

**REMARKS/ARGUMENTS**

In view of the foregoing amendments and the following remarks, the applicants respectfully submit that the pending claims comply with 35 U.S.C. § 112, comply with 35 U.S.C. § 101 and are not rendered obvious under 35 U.S.C. § 103. Accordingly, it is believed that this application is in condition for allowance. **If, however, the Examiner believes that there are any unresolved issues, or believes that some or all of the claims are not in condition for allowance, the applicants respectfully request that the Examiner contact the undersigned to schedule a telephone Examiner Interview before any further actions on the merits.**

The applicants will now address each of the issues raised in the outstanding Office Action. Before doing so, however, John Pokotylo and Len Linardakis would like to thank Examiner Barot for courtesies extended during a telephone interview on September 21, 2011 (referred to as "the telephone interview").

**Telephone Interview Summary**

This statement of the substance of the Interview summarizes the issues discussed on September 21, 2011 in a telephone interview. This Interview Summary is presented in the format suggested in MPEP § 713.04 by the Patent Office.

**Date of Interview:** September 21, 2011

**Type of Interview:** Telephone

***Name of Participants:***

- Examiner: Bharat Barot
- For Applicants: John C. Pokotylo  
Leonard P. Linardakis

***A. Exhibit(s) Shown:*** None

***B. Claims discussed:*** 1, 6, 14 and 25

***C. References Discussed:***

- U.S. Patent No. 6,965,592 ("the Tinsley patent")
- U.S. Patent No. 7,151,775 ("the Renwick patent")

***D. Proposed Amendments discussed:***

- Examiner Barot and the applicants' representatives discussed clarifying some of the elements recited in claim 1. Specifically, the applicants' representatives proposed clarifying the "extended information" recited in the independent claims.

***E. Discussion of General Thrust of the Principal Arguments***

- The § 112 rejection of claims 25, 42 and 43 was discussed.
- The applicants' representatives described exemplary embodiments consistent with the claims, their understanding of the cited references, and the differences between the claims and the cited references.

- Proposed amendments with respect to claims 1, 14 and 25 were discussed to highlight distinctions between the claims and the cited references.

- The § 101 rejection of claim 14 was discussed.

**F. Other Pertinent Matters Discussed:** None

**G. General Results/Outcome of Interview**

- Examiner Barot agreed that the § 112, 2nd paragraph rejection of claims 25, 42 and 43 was addressed in the previous amendment filed on September 2, 2010, and that he would withdraw the § 112, 2nd paragraph rejection.

- Following the telephone interview, proposed amendments to claim 1 were sent to Examiner Barot. On September 29, 2011, Examiner Barot telephoned the undersigned and noted that the proposed amendments sent would likely overcome the art of record, although an additional prior art search would be required.

**Rejections under 35 U.S.C. § 112**

Claims 25, 42 and 43 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention. The applicants respectfully request that the Examiner

reconsider and withdraw this ground of rejection in view of the following.

In rejecting claims 25, 42, and 43, the Office states:

This limitation invokes 35 USC § 112, paragraph 6 *because it meets the 3-prong analysis set forth in MPEP 2181 as it recites the phrase "means for" or "step of" and the phrase is modified by ununctionallanguage and it is not modified by sufficient structure, material, or acts for performing the recited function. Also see Altiris Inc. v. Semantee Corp., 318 F.3d 1363, 1375 (Fed. Cir.2003). [Emphasis added.]*

(Paper No. 20110610, page 3) During the telephone interview, the applicants' representatives noted that claims 25, 42 and 43 were amended to remove means-plus-function language in the amendment filed on September 2, 2010. Therefore, claims 25, 42 and 43 do not recite the phrase "means for" or "step of". Examiner Barot agreed that the claims, as amended in the amendment filed on September 2, 2010, overcame this rejection, and agreed to withdraw this rejection.

**Rejections under 35 U.S.C. § 101**

Claims 14, 16, 17, 19 and 24 are rejected under 35 U.S.C. § 101 because the claimed inventions of the claims 14, 16-17, 19, and 24 are directed to nonstatutory subject matter. The applicants respectfully request that

the Examiner reconsider and withdraw this ground of rejection in view of the following.

Independent claim 14 recites that each of the three fields is stored in association with a label-switched path. Accordingly, the claim recites "a physical or logical relationship among data elements, designed to support specific data manipulation functions," and not a mere collection of unrelated fields. Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility," OG Notices, (November 22, 2005).

In addition, the applicants respectfully note that the data structure need not be program instructions executable by a computer or a processor. Indeed, Guidelines of the US Patent Office state:

a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory

"Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility," OG Notices, (November 22, 2005).

During a follow-up telephone discussion with Examiner Barot on September 29, 2011, Examiner Barot indicated that, upon further review, independent claim 14 might be directed toward statutory subject matter under 35 U.S.C. § 101, but that he would need to verify with

his SPE. Examiner Barot stated that he would reconsider the 35 U.S.C. § 101 rejection of claim 14. In addition, since claims 16, 17, 19 and 24 directly or indirectly depend from claim 14, the applicants respectfully request that the Examiner reconsider the 35 U.S.C. § 101 rejection of these claims as well.

**Rejections under 35 U.S.C. § 103**

Claims 1-14, 16, 17, 19 and 24-48 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,965,592 ("the Tinsley patent") in view of U.S. Patent No. 7,151,775 ("the Renwick patent"). The applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection in view of the following.

First, since claims 6, 7, 30, 31, 38, 39 and 47 have been canceled, this ground of rejection is rendered moot with respect to these claims.

Next, independent claims 1 and 25, as amended, are not rendered obvious by the Tinsley and Renwick patents because these patents neither teach, nor make obvious, (A) **determining whether or not the message includes resolution next hop information, the resolution next hop information including one of a host network address, or a network address prefix, of a second node which includes routing information to an egress node of the label-switched path,** (B) if the message does not include resolution next hop information, determining, using a

first part of the message and routing information, whether or not to generate a further message to signal the label-switched path, and (C) **if the message does include resolution next hop information, determining, using the resolution next hop information and routing information, whether or not to generate a further message to signal the label-switched path.**

During the telephone interview on September 21, 2011, proposed amendments with respect to claims 1, 14 and 25 were discussed to highlight the differences between these claims and the cited references. Specifically, the applicants' representatives proposed clarifying the "extended information" recited in the independent claims. Following the telephone interview, proposed amendments to claim 1 were emailed to Examiner Barot on September 21, 2011 to address the Examiner's concerns. On September 29, 2011, Examiner Barot telephoned the undersigned and noted that the proposed amendments would likely overcome the art of record, although an additional prior art search would be required.

In view of the foregoing discussions with Examiner Barot, independent claims 1 and 25 have been amended to clarify that the method determines whether or not the message includes **resolution next hop information, the resolution next hop information including one of a host network address, or a network address prefix, of a second node which includes routing information to an egress node of the label-switched path.** Independent claims 14 and 44 have been similarly amended. These amendments are

supported by dependent claims 6 and 7 (now canceled), Figure 11, and paragraphs [0019] and [0064]-[0069] of the present application.

Thus, in view of the foregoing amendments, the applicants respectfully request that the Examiner reconsider and withdraw this ground of rejection with respect to pending claims 1-5, 8-14, 16, 17, 19, 24-29, 32-37, 40-46 and 48.

### Conclusion

In view of the foregoing amendments and remarks, the applicant respectfully submits that the pending claims are in condition for allowance. Accordingly, the applicants request that the Examiner pass this application to issue.

Any arguments made in this amendment pertain *only* to the specific aspects of the invention *claimed*. Any claim amendments or cancellations, and any arguments, are made *without prejudice to, or disclaimer of*, the applicants' right to seek patent protection of any unclaimed (e.g., narrower, broader, different) subject matter, such as by way of a continuation or divisional patent application for example.

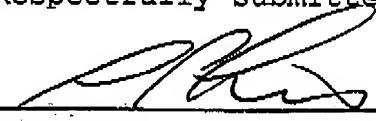
Since the applicants' remarks, amendments, and/or filings with respect to the Examiner's objections and/or rejections are sufficient to overcome these objections and/or rejections, the applicants' silence as to assertions by the Examiner in the Office Action and/or to



certain facts or conclusions that may be implied by objections and/or rejections in the Office Action (such as, for example, whether a reference constitutes prior art, whether references have been properly combined or modified, whether dependent claims are separately patentable, etc.) is not a concession by the applicants that such assertions and/or implications are accurate, and that all requirements for an objection and/or a rejection have been met. Thus, the applicants reserve the right to analyze and dispute any such assertions and implications in the future.

Respectfully submitted,

October 18, 2011

  
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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this paper (and any accompanying paper(s)) is being facsimile transmitted to the United States Patent Office on the date shown below.

Leonard P. Linardakis

Type or print name of person signing certification

  
Signature

October 18, 2011  
Date